

The single issue raised by the respondent was whether the amendments to K.S.A. 44-501(c) can be retroactively applied as provided for in K.S.A. 1996 Supp. 44-501a.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record, considering the briefs, and hearing the arguments of the parties, the Appeals Board finds as follows:

The Administrative Law Judge awarded the claimant permanent partial general disability benefits in the amount of 3.5 percent based on the stipulated 3.5 percent permanent functional impairment rating. In the instant case, the injured claimant was not disabled from earning full wages at work for at least one week. On the date of claimant's accident, April 30, 1995, K.S.A. 44-501(c) required an employee to be disabled from work for at least one week before an employer could be liable for worker's compensation benefits other than medical compensation. That requirement was upheld by the Kansas Court of Appeals in the case of Boucher v. Peerless Products, Inc., 21 Kan. App.2d 977, 911 P.2d 198, rev. denied 260 Kan. ___ (1996). Subsequent to the Boucher decisions the 1996 Kansas Legislature in S.B. 649 amended K.S.A. 44-501(c) by deleting this requirement and made the amendment apply to any injury which occurred prior to the effective date of the act, April 4, 1996, unless the claim had been fully adjudicated. See K.S.A. 1996 Supp. 44-501a. The respondent argues that K.S.A. 1996 Supp. 44-501a, as a matter of law, can not make the amendments to K.S.A. 44-501(c) retroactive. The Administrative Law Judge found the modifications to K.S.A. 44-501(c) as contained in S.B. 649 applied to this case as the claim was not fully adjudicated prior to April 4, 1996, the effective date of the act. Therefore, the Administrative Law Judge found the claimant was entitled to an award of permanent partial general disability benefits.

The Appeals Board has previously addressed this issue in the case of Redford v. ANR Freight System, Docket No. 192,613 (Sept. 1996). In Redford, the Appeals Board found that K.S.A. 44-501(c) as amended by S.B. 649 could be applied retroactively. The Appeals Board concludes the findings and conclusions in Redford apply to the issue raised in this case. Therefore, those findings and conclusions need not be repeated in this order and are adopted by the Appeals Board as if specifically set forth herein. Accordingly, the Appeals Board finds that the Award of the Administrative Law Judge entitling the claimant to 3.5 percent general disability should be affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Jon L. Frobish, dated September 3, 1996, should be, and is hereby, affirmed in all respects. The orders contained in the Award are hereby adopted by the Appeals Board as its own.

IT IS SO ORDERED.

Dated this ____ day of February 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: David H. Farris, Wichita, Kansas
David M. Druten, Kansas City, Kansas
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director